

## NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Madeleine Clayton 09/28/2001  
Departmental Forms Clearance Officer  
Office of the Chief Information Officer  
14th and Constitution Ave. NW.  
Room 6086  
Washington, DC 20230

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for the extension of approval of an information collection received on 07/30/2001.

TITLE: Gear-Marking Requirements for the Harbor Porpoise  
Take Reduction Plan

AGENCY FORM NUMBER(S): None

ACTION : APPROVED

OMB NO.: 0648-0357

EXPIRATION DATE: 09/30/2004

BURDEN	RESPONSES	BURDEN HOURS	BURDEN COSTS
Previous	1,267	22	1
New	1,225	21	1
Difference	-42	-1	0
Program Change		0	0
Adjustment		-1	0

TERMS OF CLEARANCE: None

NOTE: The agency is required to display the OMB control number and inform respondents of its legal significance (see 5 CFR 1320.5(b)).

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OMB Authorizing Official Title

Donald R. Arbuckle Deputy Administrator, Office of  
Information and Regulatory Affairs

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# PAPERWORK REDUCTION ACT SUBMISSION

**Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

1. Agency/Subagency originating request	2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span> a. _____ - _____
3. Type of information collection ( <i>check one</i> ) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested ( <i>check one</i> ) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated  5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No  6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
7. Title	
8. Agency form number(s) ( <i>if applicable</i> )	
9. Keywords	
10. Abstract	
11. Affected public ( <i>Mark primary with "P" and all others that apply with "x"</i> ) a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government	12. Obligation to respond ( <i>check one</i> ) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden ( <i>in thousands of dollars</i> ) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection ( <i>Mark primary with "P" and all others that apply with "X"</i> ) a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance d. <input type="checkbox"/> Audit	16. Frequency of recordkeeping or reporting ( <i>check all that apply</i> ) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission)  Name: _____ Phone: _____

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

**NOTE:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)	
Signature	Date
Signature of NOAA Clearance Officer	
Signature	Date

**SUPPORTING STATEMENT  
GEAR-MARKING REQUIREMENTS FOR THE HARBOR PORPOISE TAKE  
REDUCTION PLAN  
OMB CONTROL NO. 0648-0357**

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary.**

The purpose of the requirement is to implement a Take Reduction Plan (TRP), pursuant to section 118 of the Marine Mammal Protection Act (MMPA), to reduce the incidental mortality and serious injury of harbor porpoise in the Gulf of Maine and mid-Atlantic coastal gillnet fisheries to below the Potential Biological Removal level for that stock. The requirement implements gear modifications and time/area closures between January 1 and April 30 to reduce bycatch of harbor porpoise.

The mid-Atlantic portion of the proposed action modifies those fishery-specific gear characteristics and fishing activities that appear to be most closely linked with higher harbor porpoise bycatch. The gear modifications include requiring changes in floatline length and twine size and limiting the number of nets that can be fished. The gear requirements differ depending on whether the vessel is employing large mesh gear or small mesh gear.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used.**

One of the regulatory steps taken by NMFS to carry out its conservation and management objectives is limiting fishing vessel effort. Limiting the number of nets in use per vessel is a method to keep mid-Atlantic gillnet operations consistent with the conservation goals of the HPTRP. The purpose and use of the gillnet net tagging program is to cap the number of nets for those vessels that are subject to the regulations, by issuing uniquely numbered tags, with a maximum number of tags for each vessel. This assures consistency throughout the mid-Atlantic fleet of affected vessels. In addition, it allows NMFS to determine the number of gillnets in use in the fishery to better monitor fishing effort in the future.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

Automated techniques are not deemed appropriate for this purpose.

**4. Describe efforts to identify duplication.**

NOAA is aware of other fishery regulations and no duplication has been identified.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

There is no significant impact on any respondents, so no special methods have been developed.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

If this collection is not conducted, it will result in inadequate enforcement of the mid-Atlantic portion of the harbor Porpoise TRP. If the plan cannot be enforced it will be very difficult to identify whether the proposed requirements are effective in reducing the bycatch of harbor porpoise. This could result in continuing to require measures that are actually unnecessary. Inaction might also nullify the intended benefits of the Mid-Atlantic TRP to reduce harbor porpoise bycatch and therefore violate the MMPA.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

The collection is consistent with the guidelines.

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

A Federal Register Notice (copy attached) solicited public comments. None were received. Public comment was also solicited during the regulatory process.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

No payments or gifts are provided.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

No confidentiality is promised or provided.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

There are no sensitive questions.

**12. Provide an estimate in hours of the burden of the collection of information.**

NMFS estimates that 76 vessels are affected by the net tagging requirements. The total number of nets which will need to be tagged is estimated by assuming that combination gillnet vessels are on average fishing 60 nets, and all other vessels are on average fishing 30 nets. This gives a weighted average of 49 nets per vessel. The average response time is 1 minute to attach one tags per net.. The average vessel will therefore require 49 minutes to attach the tags. The total for all 76 vessels is therefore 62 hours. Depending on whether net tags are lost or damaged, vessels are expected to only have to comply once over three years. The annual average over the 3 years would be 25.3 vessels affected and 21 hours.

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection.**

Depending upon whether net tags are lost or damaged, vessels are expected to only have to comply once over three years. The costs annualized over three years are \$606.

**14. Provide estimates of annualized cost to the Federal government.**

There is no Federal cost.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.**

A slight adjustment has been made to the burden hours to correct a rounding error.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

No results will be published.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

N/A.

**18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.**

There are no exceptions.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

The collection does not employ statistical methods.



## § 229.34

used in accordance with the requirements of paragraphs (b) (1) and (2) of this section.

(2) Vessels, subject to the restrictions and regulations specified in paragraph (a)(3) of this section, may fish in the Massachusetts Bay Closure Area from December 1 through the last day of February and from April 1 through May 31 of each fishing year, provided that pingers are used in accordance with the requirements of paragraphs (b) (1) and (2) of this section.

(3) Vessels, subject to the restrictions and regulations specified in paragraph (a)(4) of this section, may fish in the Cape Cod South Closure Area from December 1 through the last day of February and from April 1 through May 31 of each fishing year, provided that pingers are used in accordance with the requirements of paragraphs (b) (1) and (2) of this section.

(4) Vessels, subject to the restrictions and regulations specified in paragraph (a)(5) of this section, may fish in the Offshore Closure Area from November 1 through May 31 of each fishing year, with the exception of the Cashes Ledge Closure Area. From February 1 through the end of February, the area within the Offshore Closure Area defined as "Cashes Ledge" is closed to all fishing with sink gillnets. Vessels subject to the restrictions and regulation specified in paragraph (a)(5) of this section may fish in the Offshore Closure Area outside the Cashes Ledge Area from February 1 through the end of February provided that pingers are used in accordance with the requirements of paragraphs (b) (1) and (2) of this section.

(e) *Other special measures.* The Assistant Administrator may revise the requirements of this section through notification published in the FEDERAL REGISTER if:

(1) After plan implementation, NMFS determines that pinger operating effectiveness in the commercial fishery is inadequate to reduce bycatch to the PBR level with the current plan.

(2) NMFS determines that the boundary or timing of a closed area is inappropriate, or that gear modifications

## 50 CFR Ch. II (10–1–00 Edition)

(including pingers) are not reducing bycatch to below the PBR level.

[63 FR 66487, Dec. 2, 1998; 63 FR 71042, Dec. 23, 1998]

### § 229.34 Harbor Porpoise Take Reduction Plan—Mid-Atlantic.

(a)(1) *Regulated waters.* The regulations in this section apply to all waters in the Mid-Atlantic bounded on the east by 72°30' W. longitude and on the south by the North Carolina/South Carolina border (33°51' N. latitude), except for the areas exempted in paragraph (a)(2) of this section.

(2) *Exempted waters.* All waters landward of the first bridge over any embayment, harbor, or inlet will be exempted. The regulations in this section do not apply to waters landward of the following lines:

#### New York

40° 45.70' N 72° 45.15' W TO 40° 45.72' N 72° 45.30' W (Moriches Bay Inlet)  
40° 37.32' N 73° 18.40' W TO 40° 38.00' N 73° 18.56' W (Fire Island Inlet)  
40° 34.40' N 73° 34.55' W TO 40° 35.08' N 73° 35.22' W (Jones Inlet)

#### New Jersey

39° 45.90' N 74° 05.90' W TO 39° 45.15' N 74° 06.20' W (Barnegat Inlet)  
39° 30.70' N 74° 16.70' W TO 39° 26.30' N 74° 19.75' W (Beach Haven to Brigantine Inlet)  
38° 56.20' N 74° 51.70' W TO 38° 56.20' N 74° 51.90' W (Cape May Inlet)  
39° 16.70' N 75° 14.60' W TO 39° 11.25' N 75° 23.90' W (Delaware Bay)

#### Maryland/Virginia

38° 19.48' N 75° 05.10' W TO 38° 19.35' N 75° 05.25' W (Ocean City Inlet)  
37° 52.1' N 75° 24.30' W TO 37° 11.90' N 75° 48.30' W (Chincoteague to Ship Shoal Inlet)  
37° 11.10' N 75° 49.30' W TO 37° 10.65' N 75° 49.60' W (Little Inlet)  
37° 07.00' N 75° 53.75' W TO 37° 05.30' N 75° 56.1' W (Smith Island Inlet)

#### North Carolina

All marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts 1:80,000 scale), and as described in 33 CFR part 80.

(b) *Closures*—(1) *New Jersey waters.* From April 1 through April 20, it is prohibited to fish with, set, haul back, possess on board a vessel unless

stowed, or fail to remove any large mesh gillnet gear from the waters off New Jersey.

(2) *Mudhole*. From February 15 through March 15, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any large mesh or small mesh gillnet gear from the waters off New Jersey known as the Mudhole.

(3) *Southern Mid-Atlantic waters*. From February 15 through March 15, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any large mesh gillnet gear from the southern Mid-Atlantic waters.

(c) Gear requirements and limitations—(1) *Waters off New Jersey—large mesh gear requirements and limitations*. From January 1 through April 30 of each year, no person may fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any large mesh gillnet gear in waters off New Jersey, unless the gear complies with the specified gear characteristics. During this period, no person who owns or operates the vessel may allow the vessel to enter or remain in waters off New Jersey with large mesh gillnet gear on board, unless the gear complies with the specified gear characteristics or unless the gear is stowed. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(i) *Floatline length*. The floatline is no longer than 4,800 ft (1,463.0 m), and, if the gear is used in the Mudhole, the floatline is no longer than 3,900 ft (1,188.7 m).

(ii) *Twine size*. The twine is at least 0.04 inches (0.090 cm) in diameter.

(iii) *Size of nets*. Individual nets or net panels are not more than 300 ft (91.44 m, or 50 fathoms), in length.

(iv) *Number of nets*. The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 80.

(v) *Tie-down system*. The gillnet is equipped with tie-downs spaced not more than 15 ft (4.6 m) apart along the floatline, and each tie-down is not more than 48 inches (18.90 cm) in length from the point where it connects to the

floatline to the point where it connects to the lead line.

(vi) *Tagging requirements*. Beginning January 1, 2000, the gillnet is equipped with one tag per net, with one tag secured to each bridle of every net within a string of nets.

(2) *Waters off New Jersey—small mesh gillnet gear requirements and limitations*. From January 1 through April 30 of each year, no person may fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any small mesh gillnet gear in waters off New Jersey, unless the gear complies with the specified gear characteristics. During this period, no person who owns or operates the vessel may allow the vessel to enter or remain in waters off New Jersey with small mesh gillnet gear on board, unless the gear complies with the specified gear characteristics or unless the gear is stowed. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(i) *Floatline length*. The floatline is less than 3,000 ft (914.4 m).

(ii) *Twine size*. The twine is at least 0.031 inches (0.081 cm) in diameter.

(iii) *Size of nets*. Individual nets or net panels are not more than 300 ft (91.4 m or 50 fathoms) in length.

(iv) *Number of nets*. The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 45.

(v) *Tie-down system*. Tie-downs are prohibited.

(vi) *Tagging requirements*. Beginning January 1, 2000, the gillnet is equipped with one tag per net, with one tag secured to each bridle of every net within a string of nets.

(3) *Southern Mid-Atlantic waters—large mesh gear requirements and limitations*. From February 1 through April 30 of each year, no person may fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any large mesh gillnet gear in Southern Mid-Atlantic waters, unless the gear complies with the specified gear characteristics. During this period, no person who owns or operates the vessel may allow the vessel to enter or remain in Southern Mid-Atlantic waters with large mesh sink gillnet gear on

board, unless the gear complies with the specified gear characteristics or unless the gear is stowed. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(i) *Floatline length.* The floatline is no longer than 3,900 ft (1,188.7 m).

(ii) *Twine size.* The twine is at least 0.04 inches (0.090 cm) in diameter.

(iii) *Size of nets.* Individual nets or net panels are not more than 300 ft (91.4 m or 50 fathoms) in length.

(iv) *Number of nets.* The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 80.

(v) *Tie-down system.* The gillnet is equipped with tie-downs spaced not more than 15 ft (4.6 m) apart along the floatline, and each tie-down is not more than 48 inches (18.90 cm) in length from the point where it connects to the floatline to the point where it connects to the lead line.

(vi) *Tagging requirements.* Beginning January 1, 2000, the gillnet is equipped with one tag per net, with one tag secured to each bridle of every net within a string of nets.

(4) *Southern Mid-Atlantic waters—small mesh gillnet gear requirements and limitations.* From February 1 through April 30 of each year, no person may fish with, set, haul back, possess on board a vessel unless stowed, or fail to remove any small mesh gillnet gear in waters off New Jersey, unless the gear complies with the specified gear characteristics. During this period, no person who owns or operates the vessel may allow the vessel to enter or remain in Southern Mid-Atlantic waters with

small mesh gillnet gear on board, unless the gear complies with the specified gear characteristics or unless the gear is stowed. In order to comply with these specified gear characteristics, the gear must have all the following characteristics:

(i) *Floatline length.* The floatline is no longer than 2118 ft (645.6 m).

(ii) *Twine size.* The twine is at least 0.03 inches (0.080 cm) in diameter.

(iii) *Size of nets.* Individual nets or net panels are not more than 300 ft (91.4 m or 50 fathoms) in length.

(iv) *Number of nets.* The total number of individual nets or net panels for a vessel, including all nets on board the vessel, hauled by the vessel or deployed by the vessel, does not exceed 45.

(v) *Tie-down system.* Tie-downs are prohibited.

(vi) *Tagging requirements.* Beginning January 1, 2000, the gillnet is equipped with one tag per net, with one tag secured to each bridle of every net within a string of nets.

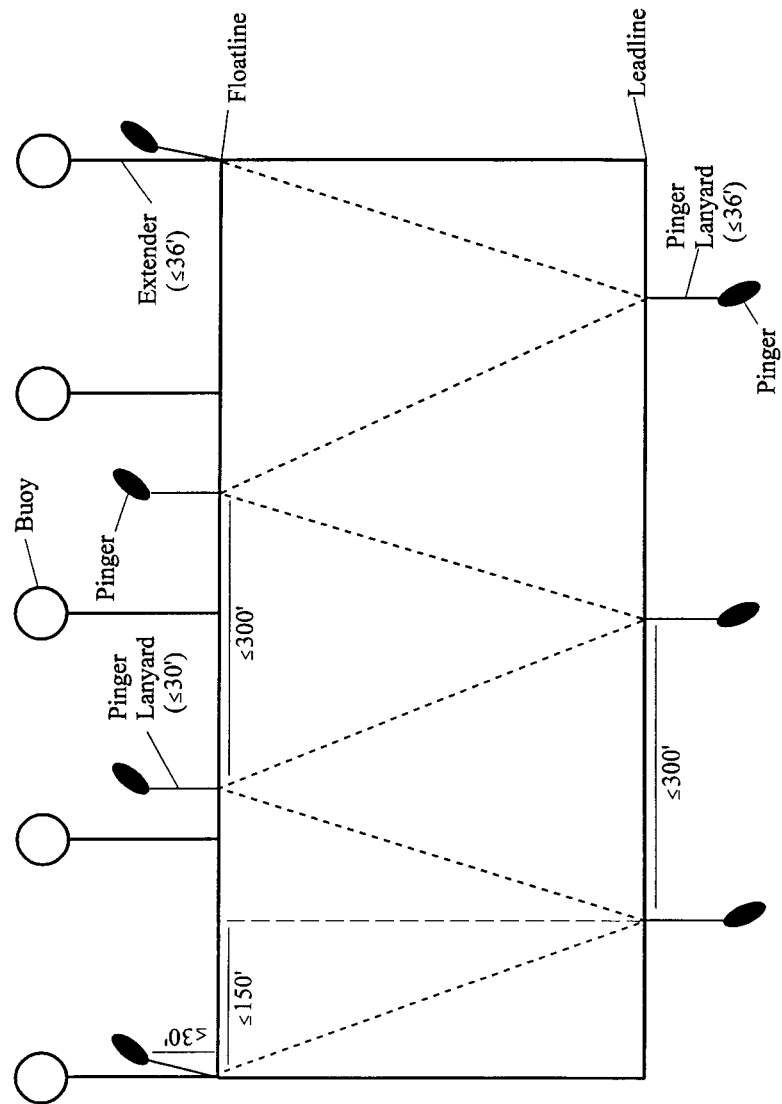
(d) *Other special measures.* The Assistant Administrator may revise the requirements of this section through notification published in the FEDERAL REGISTER if:

(1) After plan implementation, NMFS determines that pinger operating effectiveness in the commercial fishery is inadequate to reduce bycatch to the PBR level with the current plan.

(2) NMFS determines that the boundary or timing of a closed area is inappropriate, or that gear modifications (including pingers) are not reducing bycatch to below the PBR level.

[63 FR 66489, Dec. 2, 1998]

Figure 1. Drift Gillnet Pinger Configuration and Extender Requirements



[64 FR 3434, Jan. 22, 1999]

to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

- (1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.
- (2) The name and address of the vessel owner or operator.
- (3) The name and description of the fishery.
- (4) The species of each marine mammal incidentally killed or injured, and the date, time, and approximate geographic location of such occurrence.
- (f) Take reduction plans
  - (1) The Secretary shall develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a commercial fishery listed under subsection (c)(1)(A)(i) or (ii) of this section, and may develop and implement such a plan for any other marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) of this section which the Secretary determines, after notice and opportunity for public comment, has a high level of mortality and serious injury across a number of such marine mammal stocks.
  - (2) The immediate goal of a take reduction plan for a strategic stock shall be to reduce, within 6 months of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to levels less than the potential biological removal level established for that stock under section [1386](#) of this title. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing State or regional fishery management plans.
  - (3) If there is insufficient funding available to develop and implement a take reduction plan for all such stocks that interact with commercial fisheries listed under subsection (c)(1)(A)(i) or
    - (ii) of this section, the Secretary shall give highest priority to the development and implementation of take reduction plans for species or stocks whose level of incidental mortality and serious injury exceeds the potential biological removal level, those that have a small population size, and those which are declining most rapidly.
  - (4) Each take reduction plan shall include -
    - (A) a review of the information in the final stock assessment published under section [1386](#)(b) of this title and any substantial new information;
    - (B) an estimate of the total number and, if possible, age and gender, of animals from the stock that are being incidentally

lethally taken or seriously injured each year during the course of commercial fishing operations, by fishery;

- (C) recommended regulatory or voluntary measures for the reduction of incidental mortality and serious injury;
- (D) recommended dates for achieving the specific objectives of the plan.

○ (5)

- (A) For any stock in which incidental mortality and serious injury from commercial fisheries exceeds the potential biological removal level established under section [1386](#) of this title, the plan shall include measures the Secretary expects will reduce, within 6 months of the plan's implementation, such mortality and serious injury to a level below the potential biological removal level.
- (B) For any stock in which human-caused mortality and serious injury exceeds the potential biological removal level, other than a stock to which subparagraph (A) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months of the plan's implementation, the incidental mortality and serious injury by such commercial fisheries from that stock. For purposes of this subparagraph, the term "maximum extent practicable" means to the lowest level that is feasible for such fisheries within the 6-month period.

○ (6)

- (A) At the earliest possible time (not later than 30 days) after the Secretary issues a final stock assessment under section [1386](#)(b) of this title for a strategic stock, the Secretary shall, and for stocks that interact with a fishery listed under subsection (c)(1)(A)(i) of this section for which the Secretary has made a determination under paragraph (1), the Secretary may -
  - (i) establish a take reduction team for such stock and appoint the members of such team in accordance with subparagraph (C); and
  - (ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such stock, and a list of all commercial fisheries that cause incidental mortality and serious injury of marine mammals from such stock.
- (B) The Secretary may request a take reduction team to address a stock that extends over one or more regions or fisheries, or multiple stocks within a region or fishery, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.
- (C) Members of take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the take reduction plan will address, or the fishing practices which result in the incidental mortality and serious injury of such species. Members shall include representatives of Federal agencies, each coastal State which has fisheries which interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational

fisheries groups and gear types which incidentally take the species or stock, Alaska Native organizations or Indian tribal organizations, and others as the Secretary deems appropriate. Take reduction teams shall, to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests.

- (D) Take reduction teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings of take reduction teams shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.
- (E) Members of take reduction teams shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team.
- (7) Where the human-caused mortality and serious injury from a strategic stock is estimated to be equal to or greater than the potential biological removal level established under section [1386](#) of this title for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A)(i) or (ii) of this section, the following procedures shall apply in the development of the take reduction plan for the stock:
  - (A)
    - (i) Not later than 6 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for such stock to the Secretary, consistent with the other provisions of this section.
    - (ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.
  - (B)
    - (i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.
    - (ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.
  - (C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue

a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

- (D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.
- (E) The Secretary and the take reduction team shall meet every 6 months, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.
- (F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.
- (8) Where the human-caused mortality and serious injury from a strategic stock is estimated to be less than the potential biological removal level established under section [1386](#) of this title for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A)(i) or (ii) of this section, or for any marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) of this section for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the take reduction plan for such stock:
  - (A)
    - (i) Not later than 11 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for the stock to the Secretary, consistent with the other provisions of this section.
    - (ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.
  - (B)
    - (i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.
    - (ii) In the event that the take reduction team does not submit



a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

- (C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.
- (D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.
- (E) The Secretary and the take reduction team shall meet on an annual basis, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.
- (F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.
- (9) In implementing a take reduction plan developed pursuant to this subsection, the Secretary may, where necessary to implement a take reduction plan to protect or restore a marine mammal stock or species covered by such plan, promulgate regulations which include, but are not limited to, measures to -
  - (A) establish fishery-specific limits on incidental mortality and serious injury of marine mammals in commercial fisheries or restrict commercial fisheries by time or area;
  - (B) require the use of alternative commercial fishing gear or techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;
  - (C) educate commercial fishermen, through workshops and other means, on the importance of reducing the incidental mortality and serious injury of marine mammals in affected commercial fisheries; and
  - (D) monitor, in accordance with subsection (d) of this section, the effectiveness of measures taken to reduce the level of incidental mortality and serious injury of marine mammals in the course of commercial fishing operations.
- (10)
  - (A) Notwithstanding paragraph (6), in the case of any stock to which paragraph (1) applies

for which a final stock assessment has not been published under section [1386\(b\)\(3\)](#) of this title by April 1, 1995, due to a proceeding under section [1386\(b\)\(2\)](#) of this title, or any Federal court review of such proceeding, the Secretary shall establish a take reduction team under paragraph (6) for such stock as if a final stock assessment had been published.

- (B) The draft stock assessment published for such stock under section [1386\(b\)\(1\)](#) of this title shall be deemed the final stock assessment for purposes of preparing and implementing a take reduction plan for such stock under this section.
- (C) Upon publication of a final stock assessment for such stock under section [1386\(b\)\(3\)](#) of this title the Secretary shall immediately reconvene the take reduction team for such stock for the purpose of amending the take reduction plan, and any regulations issued to implement such plan, if necessary, to reflect the final stock assessment or court action. Such amendments shall be made in accordance with paragraph (7)(F) or (8)(F), as appropriate.
- (D) A draft stock assessment may only be used as the basis for a take reduction plan under this paragraph for a period of not to exceed two years, or until a final stock assessment is published, whichever is earlier. If, at the end of the two-year period, a final stock assessment has not been published, the Secretary shall categorize such stock under section [1386\(a\)\(5\)\(A\)](#) of this title and shall revoke any regulations to implement a take reduction plan for such stock.
- (E) Subparagraph (D) shall not apply for any period beyond two years during which a final stock assessment for such stock has not been published due to review of a proceeding on such stock assessment by a Federal court. Immediately upon final action by such court, the Secretary shall proceed under subparagraph (C).
- (11) Take reduction plans developed under this section for a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be consistent with any recovery plan developed for such species or stock under section 4 of such Act (16 U.S.C. 1533).
- (g) Emergency regulations
  - (1) If the Secretary finds that the incidental mortality and serious injury of marine mammals from commercial fisheries is having, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary shall take actions as follows:
    - (A) In the case of a stock or species for which a take reduction plan is in effect, the Secretary shall -
      - (i) prescribe emergency regulations that, consistent with such plan to the maximum extent practicable, reduce incidental mortality and serious injury in that fishery; and
      - (ii) approve and implement, on an expedited basis, any amendments to such plan that are recommended by the take reduction team to address such adverse impact.
    - (B) In the case of a stock or species for which a take reduction plan is being developed, the Secretary shall -
      - (i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery; and

Dated: May1, 2001.

**Madeleine Clayton,**

*Departmental Paperwork Clearance Officer,  
Office of the Chief Information Officer.*

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**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 050301E]

#### Individual Fishing Quotas Program for Pacific Halibut and Sablefish in the Alaska Fisheries

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Proposed information collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before July 9, 2001.

**ADDRESSES:** Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Patsy A. Bearden, F/ AKR2, P.O. Box 21668, Juneau, AK 99802-1668 (telephone 907-586-7008).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

NMFS manages the Pacific halibut and sablefish fisheries in Alaska through an Individual Fishery Quota program (IFQ) that allocates annual total catch limits to individual fishermen. Fishermen are assigned Quota Shares (QS) for the fisheries, and then annually received an IFQ. As part of its management program, NMFS monitors the IFQs assigned to vessel categories B, C, or D by corporations and partnerships.

To ensure that corporations and partnerships are not erroneously issued annual IFQ resulting from the collectively-held QS, NMFS seeks to

add a requirement that each corporation or partnership annually identify all current shareholders or partners and affirm the entity's continuing existence as a corporation or partnership.

NMFS' Restricted Access Management program (RAM) requires annual updates on the status of corporations, partnerships, and other collective entities holding QS for two reasons. First, the IFQ regulations require that collective entities holding QS transfer the collectively-held QS to a qualified individual upon any change in the corporation, partnership, or other collective entity, and the regulations define such a change as the addition of a shareholder, partner, or member to the collective entity. This requirement is intended to promote an owner-operated fishery and to prevent the accumulation of QS by speculative investors. To monitor collectively-held QS adequately, RAM needs the annual updates on the status of collective entities that this collection of information would provide to ensure a collective entity's continuing existence as such.

Also, the IFQ Program requires that the QS holder be aboard the vessel harvesting the QS holder's annual IFQ. Under certain conditions, however, an individual QS holder may hire a skipper to fish the QS holder's IFQ. One such condition is that the QS holder own the vessel from which the hired skipper harvests the IFQ. Since the inception of the IFQ Program in 1995, NMFS's policy has interpreted vessel ownership liberally to allow an individual QS holder who meets all other conditions to hire a skipper to fish his or her IFQ from a vessel owned by a corporation, partnership, or other collective entity in which the individual QS holder is a shareholder, partner, or member. Likewise, collective entities holding QS may hire skippers to fish the collectively-held IFQ from a vessel owned by a member of the collective. This arrangement is known informally as "indirect ownership." Hence, to ensure that individuals and collective entities claiming indirect vessel ownership for purposes of hiring skippers are in fact linked to the entity owning the vessel, RAM needs the annual updates on the status of collective entities to monitor "indirect" ownership.

##### II. Method of Collection

The information is submitted to respond to requirements set forth in a regulation.

##### III. Data

*OMB Number:* None.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Not-for-profit institutions, business and other for-profit organizations.

*Estimated Number of Respondents:* 50.

*Estimated Time Per Response:* 30 minutes.

*Estimated Total Annual Burden Hours:* 25.

*Estimated Total Annual Cost to Public:* \$50.

#### IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May1, 2001.

**Madeleine Clayton,**

*Departmental Paperwork Clearance Officer,  
Office of the Chief Information Officer.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 050301F]

#### Gear-Marking Requirements for the Harbor Porpoise Take Reduction Plan

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Proposed information collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the

Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before July 9, 2001.

**ADDRESSES:** Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Kimberly Thournhurst, NMFS, One Blackburn Drive, Gloucester, MA 01930-2209 (telephone 978-281-9138).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

Federal regulations at 50 CFR 229.34 limit the number of nets that can be used in certain fisheries in the mid-Atlantic that appear to be most closely linked with accidental catch of harbor porpoises. Fishermen in these fisheries must obtain and attach numbered tags for their nets. Because the number of tags per vessel is capped, the tagging program helps to limit the number of nets in use and helps NOAA identify the number in use.

**II. Method of Collection**

Requests for tags are submitted to NOAA on a paper form.

**III. Data**

*OMB Number:* 0648-0357.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit organizations, individuals or households.

*Estimated Number of Respondents:* 25

*Estimated Time Per Response:* 1 minute to attach a tag to a net, 2 minutes to request tags.

*Estimated Total Annual Burden Hours:* 22.

*Estimated Total Annual Cost to Public:* \$400.

**IV. Request for Comments**

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the

use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 1, 2001.

**Madeleine Clayton,**

*Departmental Paperwork Clearance Officer,  
Office of the Chief Information Officer.*

[FR Doc. 01-11553 Filed 5-7-01; 8:45 am]

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**COMMITTEE FOR THE  
IMPLEMENTATION OF TEXTILE  
AGREEMENTS**

**Denial of Short Supply Request under  
the United States—Caribbean Basin  
Trade Partnership Act (CBTPA)**

May 3, 2001.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA)

**ACTION:** Denial of the petition alleging that 30 and 36 singles solution dyed staple spun viscose yarn, for use in knit fabrics, cannot be supplied by the domestic industry in commercial quantities in a timely manner.

**FOR FURTHER INFORMATION CONTACT:**

Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

**SUMMARY:** On March 12, 2001 the Chairman of CITA received a petition from Fabrictex alleging that 30 and 36 singles solution dyed staple spun viscose yarn, for use in knit fabrics, classified in subheading 5510.11.0000 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requested that the President proclaim that apparel articles of U.S. formed fabrics of such yarns be eligible for preferential treatment under the CBTPA. As a result, CITA published a Federal Register Notice (66 FR 154111, March 19, 2001) requesting public comments on the petition. These comments were due April 3, 2001. Based on currently available information, CITA has determined that these products can be supplied by the domestic industry in commercial quantities in a timely manner and therefore denies the petition.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act, as

added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

**Background:**

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The CBTPA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a CBTPA beneficiary country, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner and the President has proclaimed such treatment. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On March 12, 2001 the Chairman of CITA received a petition from Fabrictex alleging that 30 and 36 singles solution dyed staple spun viscose yarn, for use in knit fabrics, classified in subheading 5510.11.0000 of the HTSUS, cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requested that the President proclaim that apparel articles of U.S. formed fabrics of such yarns be eligible for preferential treatment under the CBTPA.

CITA solicited public comments regarding this request (66 FR 154111, published on March 19, 2001) particularly with respect to whether 30 and 36 singles solution dyed staple spun viscose yarn, classified in HTSUS heading 5510.11.0000, can be supplied by the domestic industry in commercial quantities in a timely manner.

On the basis of currently available information, including its review of the petition and public comments received and its understanding of the industry, CITA has determined that Fabrictex has not established that these yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner, and has determined that these yarns can be so supplied. Written